

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2835 OF 2002

M/s.Alcon Pharmaceuticals Pvt.Ltd.
& Another .. Petitioners.

V/s.
Union of India & Another .. Respondents.

Mr.A.H. Mehta i/b. Akshar Laws for the petitioners.
Mr.Rajiv Chavan for the respondents.

**CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.**

DATED : 12TH APRIL, 2005.

P.C. :

1. Heard learned counsel for the petitioners.
Perused petition.

2. The petitioners herein have failed to produce crucial document by which the order to supply goods was placed on the foreign supplier. Had the document; namely; order form been produced by the petitioners, it would have thrown clear light as to what was the material ordered by the petitioners. This document was and is in possession of the petitioners. It is not a case of the petitioners that such document was never in existence or available or that the order was placed on phone. No material in this behalf has been placed on record. No reasons are to be found on record for non-production of such crucial documents. The documents could have given clear indications as to

the nature of goods ordered. In absence of this crucial evidence, one has to draw an inference that had such document or evidence been placed on record, it would not have helped the petitioners rather gone against the petitioners.

3. In absence of any material in this behalf, this is a fit case wherein adverse inference needs to be drawn against the petitioners. The findings recorded by the authorities below and the view taken in the impugned order is a reasonable and possible view.

4. This Court being not an appeal Court cannot interfere with an order impugned herein.

5. The petition, is therefore, dismissed in limine with no order as to costs.
